

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHAN E. TABIN,

No. 07-13836

Plaintiff,

District Judge Anna Diggs Taylor

v.

Magistrate Judge R. Steven Whalen

OFFICER RYAN E. MILLER, in his
individual and official capacity, and
VILLAGE OF LEXINGTON, a
Municipal Corporation,

Defendants.

_____ /

ORDER

Defendants have filed a motion to compel discovery [Docket #20], based on Plaintiff's failure to respond timely to interrogatories and requests to produce. Plaintiff has not filed a response to this motion.

Under Fed.R.Civ.P. 37(a)(3), Defendants are entitled to an order compelling Plaintiff to produce the requested discovery. However, on December 12, 2008, I issued a Report and Recommendation (R&R), recommending that Defendants' motion for summary judgment be granted, and the case dismissed. If that R&R is adopted by the District Judge, then the present motion to compel will be moot. On the other hand, if Plaintiff ultimately survives summary judgment, he is required to respond to the interrogatories and requests to produce.

Accordingly, Defendants' motion to compel [Docket #20] is **CONDITIONALLY GRANTED**. If and only if the District Judge rejects the R&R, the Plaintiff shall produce the requested discovery within 14 days of entry of the final order denying summary judgment.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: December 16, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on December 16, 2008.

S/G. Wilson
Judicial Assistant